

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-10323

John Evans

v.

Paul Verdini

**CLERK'S CERTIFICATE**

I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 7/18/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on August 19, 2005.

Sarah A Thornton, Clerk of Court

By: *Jeanette Ramos*  
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled  
case is hereby acknowledged this date: 8/19/05.

*D. Borchard*  
Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

## APPEAL

**United States District Court  
District of Massachusetts (Boston)**  
**CIVIL DOCKET FOR CASE #: 1:04-cv-10323-RWZ**

Evans v. Verdini Date Filed: 02/17/2004  
Assigned to: Judge Rya W. Zobel Jury Demand: None  
Cause: 28:2254 Petition for Writ of Habeas Nature of Suit: 530 Habeas  
Corpus (State) Corpus (General)  
Jurisdiction: Federal Question

**Petitioner**

John Evans

represented by **Emanuel Howard**  
P.O. Box 66067  
Newton, MA 02466-0002  
617-965-3042  
Fax: 617-965-3793  
Email: howarded@comcast.net  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

## Respondent

**Paul Verdini**  
*Superintendent*

represented by **Susanne G. Reardon**  
Attorney General's Office  
One Ashburton Place  
18th Floor  
Boston, MA 02108  
617-727-2200  
Fax: 617-727-5755  
Email:  
[susanne.reardon@ago.state.ma.us](mailto:susanne.reardon@ago.state.ma.us)

*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
02/17/2004	•1	MOTION for Leave to Proceed in forma pauperis by John Evans.(Jenness, Susan) (Entered: 02/17/2004)
02/17/2004	•2	PETITION for writ of habeas corpus pursuant to 28:2254, filed by John Evans.(Jenness, Susan) (Entered: 02/17/2004)
02/17/2004	•	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Dein. (Jenness, Susan) (Entered: 02/17/2004)
02/17/2004	•	Case undergoing preliminary screening (Jenness, Susan) (Entered: 02/17/2004)
02/26/2004	•3	Judge Rya W. Zobel : Endorsed ORDER entered denying 1 Motion for Leave to Proceed in forma pauperis. It is further ordered that petitioner must pay the \$5.00 filing fee within 42 days of the date of this Order or this case will be dismissed without prejudice. (Urso, Lisa) (Entered: 02/27/2004)
02/26/2004	•4	Judge Rya W. Zobel : ORDER entered (Urso, Lisa) (Entered: 02/27/2004)
03/08/2004	•	Filing fee: \$ 5, receipt number 54261 regarding Habeas Corpus (Johnson, Jay) (Entered: 03/08/2004)
03/22/2004	•5	ANSWER to Complaint by Paul Verdini.(Reardon, Susanne) (Entered: 03/22/2004)
03/23/2004	•6	SUPPLEMENTAL ANSWER to Complaint by Paul Verdini.(Johnson, Jay) (Entered: 03/23/2004)
03/29/2004	•7	MOTION for Leave to File additional supplemental answer and furnish copies of state court transcripts and state court appellate record appendix by John Evans. (Johnson, Jay) (Entered: 03/31/2004)

05/03/2004	• 7	Judge Rya W. Zobel : endorsed ORDER entered granting 7 Motion for Leave to File additional supplemental answer without opposition. (Urso, Lisa) (Entered: 05/03/2004)
05/21/2004	• 8	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 1) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	• 9	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 2) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	• 10	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 3) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	• 11	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 4) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
05/21/2004	• 12	FURTHER SUPPLEMENTAL ANSWER to Complaint (Volume 5) by Paul Verdini.(Johnson, Jay) (Entered: 05/21/2004)
06/21/2004	•	NOTICE of Scheduling Conference Scheduling Conference set for 7/14/2004 03:00 PM in Courtroom 12 before Judge Rya W. Zobel. (Urso, Lisa) (Entered: 06/21/2004)
07/14/2004	•	electronic Clerk's Notes for proceedings held before Judge Rya W. Zobel : Scheduling Conference held on 7/14/2004. Plaintiff's motion by 10/20/04 (65p); defendant 12/3/04; plaintiff's reply 12/20/04; Judge will decide on papers or if necessary have hearing; (Urso, Lisa) (Entered: 07/15/2004)
07/21/2004	• 13	Letter/request (non-motion) from Emanuel Howard: Out of the Office from 7/31/04-8/23/04. (Johnson, Jay) (Entered: 07/22/2004)
09/13/2004	• 14	MEMORANDUM OF LAW by John Evans to 2

		Petition for writ of habeas corpus (28:2254). (Attachments: # <a href="#">1</a> Part 2)(Johnson, Jay) (Entered: 09/14/2004)
09/13/2004	<a href="#">•15</a>	EX-PARTE MOTION to authorize counsel to obtain necessary services by John Evans.(Johnson, Jay) (Entered: 09/14/2004)
10/12/2004	<a href="#">•</a>	Judge Rya W. Zobel : endorsed ORDER entered denying [15] Motion. Given the strict statutory limits on this court's review of a habeas petition, this court does not have authority to consider the matter of an expanded record that was not before the state court. (Urso, Lisa) (Entered: 10/13/2004)
10/26/2004	<a href="#">•16</a>	EX-PARTE MOTION for Reconsideration of Denial of His Ex-Parte Motion to Authorize Counsel to Obtain Necessary Services by John Evans.(Johnson, Jay) (Entered: 10/27/2004)
11/02/2004	<a href="#">•</a>	Judge Rya W. Zobel : ORDER entered ELECTRONIC ENDORSEMENT re [16] MOTION for Reconsideration filed by John Evans. Counsel should serve this motion on the other side and let them have an opportunity to respond.(Urso, Lisa) (Entered: 11/03/2004)
11/05/2004	<a href="#">•17</a>	CERTIFICATE OF SERVICE by Paul Verdini re [16] MOTION for Reconsideration, Electronic Endorsement (non-order). (Johnson, Jay) (Entered: 11/09/2004)
11/29/2004	<a href="#">•18</a>	MOTION for Extension of Time to 12/17/04 to File Response/Reply to <i>habeas corpus</i> petition by Paul Verdini.(Reardon, Susanne) (Entered: 11/29/2004)
12/03/2004	<a href="#">•19</a>	Opposition re [16] MOTION for Reconsideration filed by Paul Verdini. (Reardon, Susanne) (Entered: 12/03/2004)
12/13/2004	<a href="#">•20</a>	REPLY to Response to Motion re [16] MOTION for

		Reconsideration filed by John Evans. (Johnson, Jay) (Entered: 12/14/2004)
12/17/2004	21	MEMORANDUM OF LAW by Paul Verdini. (Reardon, Susanne) (Entered: 12/17/2004)
12/21/2004	22	Judge Rya W. Zobel : electronic ORDER entered granting 18 Motion for Extension of Time to File Response/Reply re 18 MOTION for Extension of Time to 12/17/04 to File Response/Reply to <i>habeas corpus petition</i> Responses due by 12/17/2004 (Urso, Lisa) (Entered: 12/21/2004)
12/29/2004	22	(Assented) MOTION for Extension of Time to 1/11/04 to File Response/Reply to Memorandum in opposition to petition for habeas corpus by John Evans.(Johnson, Jay) (Entered: 01/04/2005)
01/10/2005	23	Response by John Evans to 21 Memorandum of Law in Opposition to Petition for Writ of Habeas Corpus. (Johnson, Jay) (Entered: 01/11/2005)
01/21/2005	22	Judge Rya W. Zobel : electronic ORDER entered granting 22 Motion for Extension of Time to File Response/Reply re [16] MOTION for Reconsideration Responses due by 1/11/2005 (Urso, Lisa) (Entered: 01/21/2005)
07/13/2005	24	Judge Rya W. Zobel : Order ORDER entered. MEMORANDUM OF DECISION: Accordinly, the petition is denied. Judgment may be entered for defendant.(Urso, Lisa) (Entered: 07/13/2005)
07/13/2005	25	Judge Rya W. Zobel : Order ORDER entered. JUDGMENT in favor of defendant (Urso, Lisa) (Entered: 07/13/2005)
07/18/2005	26	NOTICE OF APPEAL by John Evans. \$ 255, receipt number no fee Reason fee is not required: indigent NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit

		Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 8/8/2005. (Howard, Emanuel) Additional attachment(s) added on 7/21/2005 (Johnson, Jay). (Entered: 07/18/2005)
07/27/2005	②7 e	MOTION for Certificate of Appealability by John Evans.(Howard, Emanuel) (Entered: 07/27/2005)
07/29/2005	②8 e	NOTICE by John Evans (Howard, Emanuel) (Entered: 07/29/2005)
08/08/2005	②9 e	Judge Rya W. Zobel : endorsed ORDER entered granting in part and denying in part <u>27</u> Motion for Certificate of Appealability. In summary, the certificate of appealability is granted as to grounds 1 and 2; it is denied as to ground 3. (Urso, Lisa) Modified on 8/9/2005 (Urso, Lisa). (Entered: 08/08/2005)